Senator Feinstein Opposes Corporate Tax Bill

-- Feinstein cites $5 billion cost to Hollywood and failure to allow the FDA to regulate tobacco as primary reasons for her opposition --
October 10, 2004

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today announced her opposition to a $145 billion corporate tax bill that provides billions of dollars in subsidies to special interests.

Senator Feinstein supports the primary goal of the bill to bring the United States into compliance with a World Trade Organization ruling, but she cannot support the final conference report because the bill:

- Has become a vehicle for billions of dollars worth of tax breaks at a time of increasing deficits;
- Will cost the entertainment industry as much as $5 billion over the next 10 years;
- Doesn't include a provision contained within the Senate version of the bill giving the FDA the authority to regulate tobacco; and
- Doesn't include a provision protecting overtime protection for workers.

The following is the prepared text of Senator Feinstein's statement:

"Mr. President, I am profoundly disappointed in the FSC/ETI conference report, and that's why I will vote against its passage. The original purpose of this legislation was simple and clear – to bring the United States into compliance with a World Trade Organization (WTO) ruling which said that portions of our federal tax code run counter to international trade regulations. It is critical that we fix this problem, or U.S. companies will face increased European tariffs, costing U.S. jobs.

This conference report, however, goes far beyond the simple legislative fix needed to bring the U.S. into compliance with the WTO ruling. In fact, the cost of bringing the U.S. into compliance with the WTO is $49 billion, while the cost of the final bill is $145 billion. The difference is $96 billion in benefits to special interests – paid for with certain revenue fixes that should be used to balance the budget.

In fact, this bill provides billions of dollars in benefits to special interests at a time of unprecedented budget deficits. Let me give you a few examples cited in Thursday's *Washington Post* ('Conferees Agree on Corporate Tax Bill')**:**

- NASCAR racetrack owners get a provision to write off $101 million worth of improvements over ten years.

- Foreign gamblers at U.S. horse- and dog-racing tracks would no longer have to pay taxes on their winnings upfront. This is estimated to be worth $27 million.

- Home Depot would secure a temporary suspension of tariffs it owes for imported Chinese ceiling fans. This is estimated to be worth $44 million.

At a time when we are facing unprecedented federal deficits and a mounting debt, it is simply unconscionable to approve this giveaway to special interests. Although the ten-year cost is offset, these offsets could well be used to bring down the deficit. Policymakers should be taking steps to reduce the deficit and improve the economy, not eroding it further by doling out tax breaks to special interests.

But one industry was singled out for penalty in this bill. I cannot accept that -- and that industry happens to be the film industry. In fact, this final conference report will cost the motion picture industry $5 billion over the next ten years – because they have to make changes in the way they account for revenues. The film industry employs 750,000 people nationwide, and the major motion picture studios are publicly owned and pay annual dividends to shareholders.

Rather than allowing the industry to account for its activities on a product-line by product-line basis as was done in the Senate bill, this conference report means that the industry will have to adopt unified accounting. For example, the Disney film called *The Alamo* was produced in the United States, and did not perform as well as expected. Under the final conference report, the losses from *The Alamo* are lumped with all other company revenues – TV, DVD sales, theme parks, merchandise, and music. This is known as unified accounting.

In the Senate version of the bill, Disney would have been able to account for this loss within its film division, separate from its other divisions. This is known as product-line by product-line accounting.

- If you assume a $50 million loss, requiring unified accounting will cost the studio an additional $2.6 million in additional taxes.

- If you assume a $75 million loss, requiring unified accounting will cost the studio an additional $3.9 million in additional taxes.

So the bottom line is that unified accounting will mean that Disney, and other entertainment companies, will have to pay significantly more in taxes – as much as $5 billion over the next 10 years. I cannot believe that we would in effect raise taxes on an industry that does so much to help our economy. This simple accounting change would have significantly helped reduce the impact from this legislation. But in the end, this provision was stripped from the final conference report.

What's worse are reports that this was not due to the merits of the provision, but out of base, political concerns. A story in yesterday's edition of *Roll Call* ('Studios Take Hit in Tax Bill') asserts that lawmakers stripped the Senate film amendment in retribution for the film industry's decision to hire a Democrat – a former cabinet secretary in fact -- to head its trade association.

Let me quote from the article:

- One GOP Lobbyist for the industry said: 'The Glickman thing is going to cost them. No Republican will fight for the movie industry.'

- Another Republican Lobbyist added: 'They were not overly helpful to Republicans, so Republicans don't want to be overly helpful to them.'

Ordinarily, I don't believe much of what I read on many days and so there would be reason perhaps to dismiss this. But I also know that the word has been put out on K Street that only Republicans are welcome as lobbyists – so this article takes on new credibility.

This is especially egregious given the fact that the film industry was not even involved in the unfair trade practices that led the WTO to declare that U.S. international tax rules were unfair. I have the opinions of two former U.S. Trade Representatives - one Republican and one Democrat - Carla Hills and Mickey Kantor, which make the case.

Carla Hills wrote:

- 'Having previously served as [U.S. Trade Representative], I would like to share with you my views regarding the consistency of your amendment with applicable trade law…The [General Agreement on Tariffs and Trade] does not apply to 'audiovisual services'…and does not include any general prohibition against export contingent subsides.'

Mickey Kantor wrote:

- 'Audiovisual services are … not within the purview of the WTO FSC/TTI decisions…In my view the adoption of [your amendment]...would not violate or contravene the WTO rulings in the FSC/ETI case.'

As you can see, two former U.S. Trade representatives agree that the entertainment industry was not involved in the unfair trade practices. However, the entertainment industry is being singled out for a tax increase in this bill in order to pay for tax cuts going to multinational firms that hold their profits overseas in order to avoid paying taxes.

The bill affords these companies a 1-year long holiday from taxes and then repatriation of billions of profits at a 5.25 percent tax rate. We tried to change this on the floor but were not successful. These are the multinational firms which now will be allowed to bring those foreign-earned profits back to the United States at one half the rate that the poorest American's are required to pay on their income under this bill. This is not right. I cannot believe that the other House would utilize political vengeance to disadvantage a sector of American business, while so advantaging other sectors.

Another major flaw with this bill is that it removes the Senate language permitting long-sought FDA regulation of tobacco. The Senate voted overwhelmingly -- 78 to 15 -- in favor of a carefully crafted amendment to allow FDA regulation of tobacco.

This amendment linked FDA regulation with a 5-year, $12 billion buyout of tobacco growers. Regulatory authority over tobacco would have allowed the FDA to begin to reduce the addictive and carcinogenic elements of these products. It would have made a difference and, over the long run, it, alone, could have saved millions of lives.

Despite the broad, bipartisan support for this provision, the House rejected a proposal by Senator Kennedy to provide an additional $2 billion for tobacco growers as long as it was linked with FDA regulation of tobacco. Even Philip Morris supports FDA regulation of tobacco. Let me quote from two letters from senior executives from Altria, the parent company of Philip Morris:

Steven Parrish, Senior Vice President, Corporate Affairs, Altria Group wrote that:

- The provision on FDA regulation of tobacco 'is the result of many difficult choices and compromises by all those involved, and it reflects a balance of the perspectives of many stakeholders. We believe the bill embraces the core principles that are necessary to provide the Food and Drug Administration with comprehensive, meaningful and effective regulatory authority over tobacco products.

- Together with our domestic tobacco operating company, Philip Morris USA, we enthusiastically support passage of your bill in its entirety.'

John Scruggs, Vice President, Government Affairs, Altria Group wrote separately that:

- The provision on FDA regulation of tobacco has 'address[es] nearly all' of the 'issues relating to retailers' and we should 'disregard the strident and unfounded arguments of those who refuse to look to the future and the need for change in the tobacco industry.'

Congress had the opportunity to finally allow the FDA to regulate of tobacco -- but it failed to do so. This is deeply disappointing and shows the true colors of the House Republicans.

Now, you may ask, what would FDA regulation of tobacco do to help stop smoking and prevent these premature deaths? FDA regulation of tobacco would do two important things.

First, it would control the deceptive and manipulative advertising used by cigarette companies. Young people across the country are bombarded every day with deceptive advertising and misleading claims made by cigarette manufacturers.

The tobacco industry spends $11 billion on marketing their products. Their latest campaign involves cigarettes that come in fruit flavors and bright colors to target adolescents and women. The cigarettes are given names like California Dreams, Midnight Madness and Kauai Kolada. The cartons are a different shape and size so as to be hidden from unsuspecting parents and teachers.

And the manufacturer describes them by saying: *'Each is as enchanting and mysterious as the darkest night.* And, *live in color with California Dreams 'cigarettes in color' for your individual taste and attitude.'* This is truly a new low. These slogans, these flavors, and these colored wrappers cannot hide the fact that cigarettes kill more than 400,000 American each year – and that's the second reason that FDA regulation is so important.

FDA regulation, over time, would ratchet down the carcinogenic and addicting ingredients of tobacco products. Just think what this would be like. How many fewer Americans – young people, old people – would avoid the addiction? How many more Americans would be able to break the addiction? Today, 42 million Americans today are addicted to cigarettes and other tobacco products. A number of these will end up with lung disease and many of them will die.

Lung cancer is the number one cancer killer -- and the number one cause of lung cancer is smoking. Today and every day, 4,000 children under the age of 18 will try smoking for the first time. Two thousand of these children will become regular smokers. And thirteen hundred will die prematurely because of smoking.

The bottom line is this: Congress had the opportunity to take a major step forward in improving the health of America's children. But the Republican members of the House chose the tobacco industry over our children – and they should be held accountable for that choice.

There is one more item that did not make it into this bill, which I find deeply troubling. The Senate language to protect overtime rights was removed from the bill. This means that millions of American workers may very well lose long-guaranteed job overtime protection. This is a setback for the American worker.

There are a number of items contained within this conference report that I do support. This bill will provide:

- An expansion of the production tax credit for renewable energy including open-loop biomass**,** geothermal energy, and solar energy.

- A provision to eliminate the preferential treatment for ethanol-blended gasoline. Without this provision, California would lose $2.7 billion in highway funds over the next 5 years.

- And a provision that removes a business tax deduction for the purchase of gas-guzzling SUVs

But these provisions do not make up for the rest of the bill. I think we all would have supported a straight fix to the WTO ruling. But this bill goes too far. It fixes the WTO problem, but then it contains all these other giveaways.

So what was a $49 billion problem to solve becomes a $145 billion bill. This is just plain wrong. I hope in the future that we can remedy some of the shortcomings of this bill, but on balance, this a deeply flawed billed, which I simply cannot support."

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